

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**UNITED STATES OF AMERICA,**

**v.**

**EDD JASON HUGHES,**

**Defendant.**

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**1:16-CR-00451-ELR-JSA**

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**ORDER**

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This matter is before the Court for consideration of Magistrate Judge Justin S. Anand's Report and Recommendation ("R&R") [Doc. 43] to deny: Defendant's motions to suppress evidence [Docs. 16, 39]; Motion to Dismiss Indictment [Doc. 17]; and Motion to Suppress Statements [Doc. 28]. In the time period allotted for the parties to object to the R&R, Defendant, by and through counsel, filed objections [Doc 46]. For the following reasons, the Court **ADOPTS** the R&R and **OVERRULES** Defendant's objections.

**I. Standard of Review**

The district court reviewing an R&R "shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). If neither party objects, the

district judge need only review the R&R for clear error and “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” Id. A party objecting to an R&R “must specifically identify those findings objected to. Frivolous, conclusive, or general objections need not be considered by the district court.” United States v. Schultz, 565 F.3d 1353, 1361 (11<sup>th</sup> Cir. 2009) (quoting Marsden v. Moore, 847 F.2d 1536, 1548 (11<sup>th</sup> Cir. 1988)) (internal quotation marks omitted.). If there are no specific objections made to factual findings made by the magistrate judge, there is no requirement that those findings be reviewed de novo. Garvey v. Vaughn, 993 F.2d 776, 779 n. 9 (11<sup>th</sup> Cir. 1993). Absent objection, the district court judge “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge],” 28 U.S.C. § 636(b)(1)(C), and may accept the recommendation if it is not clearly erroneous or contrary to the law. Fed. R. Crim. P. 59. In accordance with 28 U.S.C. § 636(b)(1)(C), and Rule 59 of the Federal Rules of Criminal Procedure, the Court has conducted a *de novo* review of those portions of the R&R to which Defendant objects and has reviewed the remainder of the R&R for plain error. See United States v. Slay, 714 F.2d 1093, 1095 (11<sup>th</sup> Cir. 1983).

## **II. Discussion**

Defendant’s objections to the R&R are based on his contentions that: (1) the arresting officers lacked reasonable suspicion to stop him; (2) his federal

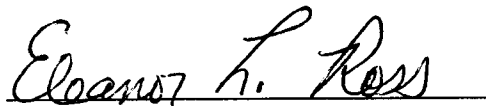
prosecution falls under the “sham prosecution” exception to the dual sovereignty doctrine and should therefore be barred by the Double Jeopardy Clause of the Fifth Amendment; and (3) his custodial statements were not voluntarily made because they were made after an officer utilized his taser to physically subdue him.

### **III. Conclusion**

After conducting a *de novo* review of those portions of the R&R to which Defendant objects and reviewing the remainder of the R&R for plain error, this Court finds that the Magistrate Judge’s factual and legal conclusions are correct. Accordingly the Court **OVERRULES** Defendant’s Objections and **ADOPTS** the R&R as the Opinion and Order of this Court. The Court **DENIES** Defendant’s motions to suppress evidence [Docs. 16, 39]; **DENIES** Defendant’s Motion to Dismiss Indictment [Doc. 17]; and **DENIES** Defendant’s Motion to Suppress Statements [Doc. 28].

Defendant is **directed to announce** within twenty-one (21) days of this Order, whether he intends to enter a plea or wishes to proceed to trial in this case.

**SO ORDERED**, this 15<sup>th</sup> day of March, 2018.

  
Eleanor L. Ross  
United States District Judge  
Northern District of Georgia